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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,772	04/26/2001	Masami Miyanishi	0666.1650000	5026
26111	7590	03/30/2005	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			LOWE, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/719,772

Applicant(s)

MIYANISHI, MASAMI

Examiner

M. Scott Lowe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 8-14 is/are allowed.
- 6) ☒ Claim(s) 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 20041105.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 4 states "a base" which seems to conflict with the "base" of claim 1. For sake of examination it was assumed that applicant meant "the base".

Line 6 states "a first plurality of operation oil hoses" which seems to conflict with "operation oil hoses" of claim 1. For sake of examination it was assumed applicant meant to insert the line "wherein said operation oil hoses comprise:" prior to aforementioned line 6.

Likewise, line 10 states "a second plurality of operation oil hoses" which seems to conflict with "operation oil hoses" of claim 1. For sake of examination it was assumed applicant meant to insert the line "wherein said operation oil hoses comprise:" prior to aforementioned line 6.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 58-30851.

Re claim 3, JP 58-30851 (figures 1-2) teaches a structure of a work machine having a plurality of drive parts which are individually driven and controlled with hydraulic pressure, comprising:

a base 3;

a boom bracket 8 mounted on the base 3, the boom bracket 8 being formed on its upper end with a first and second boom support portions (figure 2) and provided below each of the boom support portions (not numbered) with hose guide holes (not numbered);

a boom 9 serving as one of the drive parts, the boom being provided at its base end with a pair of supported portions (not numbered) formed in a bifurcated manner, wherein each of the supported portions is pivoted by each of the boom support portions via a horizontal pivot shaft (not numbered) so that the boom is vertically rotatably attached on the boom bracket;

hydraulic actuators 7, 12, 13, 14 for driving the respective drive parts of the work machine,

and operation oil hoses (not numbered) for supplying operation oil to the hydraulic actuators extending from the base, wherein each of the operation oil hoses penetrates through each of the hose guide holes.

Re claim 4, JP 58-30851 (figures 1-2) teaches the work machine structure according to claim 3, further comprising:

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a hydraulic actuator 14 for driving the boom 9 being arranged on a side of the boom 9 opposite to the base 3, wherein the operation oil hoses penetrating through the respective hose guide holes (not numbered) are provided to supply operation oil to the hydraulic actuator for driving the boom.

Re claim 5, JP 58-30851 (figures 1-2) teaches the work machine structure according to claim 3, wherein the boom bracket 8 (figure 2) is provided with a pair of ribs (figure 2) formed downwardly on both sides of each of the boom support portions so that the operation oil hose penetrating through each of the hose guide hole is passed through each of a valley between both the ribs below each of the support bracket portions.

Re claim 6, JP 58-30851 (figures 1-2) teaches structure of a work machine having a plurality of drive parts which are individually driven and controlled with hydraulic pressure, comprising:

a base 3;

a boom bracket 8 mounted on the base 3;

a boom 9 serving as one of the drive parts, the boom 9 being vertically rotatably attached on the boom bracket 8, a supported portion (not numbered) to be pivoted on the boom bracket being joined to a base end (not numbered) of a main body of the boom 9, and

a reinforcement member (the boom hydraulic cylinder supports) being disposed with the boom and plastered on the joint portion between the main body and the supported

portion of the boom, wherein the reinforcement member is formed of a plate-like member which becomes thinner toward a tip end of the boom 9.

Allowable Subject Matter

Claims 1-2, 8-14 are allowed.

Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's arguments filed 12/28/04 regarding claims 3-6 have been fully considered but they are not persuasive.

Regarding the argument that JP58-30851 does not teach hose guide holes provided below each of the boom support portions, this reference does show this item in figure 2. The holes may or may not be considered between the boom support portions horizontally but they are still vertically below the same support portions and thus meet the claims.

Regarding the argument that JP58-30851 does not teach a reinforcement member being plastered on a joint portion between the main body and the supported portion of the boom, this is not the case. This is shown in figure 1. Applicant appears to be arguing semantics. Statements outside of the claim language changes that certain

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parts are or are not part of various other structures are not persuasive since the reference meets the claims as written.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is 703-305-1940. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl


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